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Circular Letter: DHCQ 02-08-429

TO: Chief Executive Officers, MA Hospitals Performing
Cardiac Surgery and/or Angioplasty

FROM: Paul Dreyer, Ph.D., Director

SUBJECT: HIPAA Concerns Regarding the Submission of Cardiac Surgery and Angioplasty
Data

DATE: August 22, 2002

As you are aware, the Department recently promulgated regulations that require hospitals performing angioplasty and/or cardiac surgery to submit data concerning these procedures to the Mass-DAC, the entity with which the Department has contracted to receive and analyze these data. This new regulatory requirement has been described in detail in Circular Letters DHCQ 02-01-421 and 02-060426. The data set includes protected health information.

We have recently received questions from hospitals regarding the Department's authority to collect these data. Hospitals are particularly concerned about their liability under the new HIPAA regulations if they provide protected information as required by the regulations.

We have consulted with our attorneys on this question. They have advised us that, pursuant to 45 CFR 164.512(d), hospitals (covered entities) may disclose protected health information to the Department (a health oversight agency) for oversight activities authorized by law without individual authorization or opportunity to agree or object. Please note that the Department is authorized to collect such protected health information pursuant to Chapter 159 of the Acts of 2000 and 105 CMR 130.1201 et seq. and 130.1301 et seq.. HIPAA further allows oversight disclosures to be made to private entities working under a contract with or grant of authority from a government oversight agency (45 CFR 164.501), permitting the release of the data to Mass-DAC.

Please contact Dr. Sharon Lise-Normand of the Data Analysis Center (617-432-3260) with questions concerning data submission. I would be happy to address questions related to HIPAA.